

# Yes, China Does Protect Intellectual Property

In the western world, there is a common perception that patent rights are not enforced in China, however, this perception is not based on fact. Over the last decade, the protection of intellectual property rights has progressed rapidly in China. In 2009 for instance, the Chinese patent agencies processed 580,000 patent applications - which is an increase of 41% compared to 2008. China is now ranked as the third busiest patent agency in the world, only the United States and Japan rank higher. At the same time, China has overtaken the United States as having the most patent related lawsuits in the world. For example, there were 24,406 patent related lawsuits in 2009 (a 5 times increase over the start of the decade). In 2009, the United States only had 8,000 patent related lawsuits.

Unfortunately, a lot of this progress with intellectual property protection by China has gone un-noticed by foreign owned companies. In 2008, only 10% of foreign owned companies had made patent applications in China. One of the reasons for this low application rate is that foreign owned companies believe that the Chinese legal system would be more likely to support local companies in any patent disputes.

However the facts show a different story. For instance, there was a landmark case in 2009 where two local Chinese companies had to pay a total of US \$3 Million to German coach company Neoplan over a patent dispute. At the time, this was a record compensation payment made to an overseas owned company. Another intellectual property dispute case in January 2010 saw two Chinese companies ordered to pay US \$1.3 Million to an English white goods company who had a set-up in Beijing.

Over the last few years, an analysis of statistics reveals that the success rate of patent law suits for foreign owned companies in China has increased to an average of 50%, with some cities recording up to a 90% success rate. These statis-

tics indicate that foreign owned companies have more than a fair chance of enforcing their intellectual property rights in China.

This progress in protecting intellectual property has evolved over the years.

In 1985, China formally joined the Paris Convention for the Protection of Industrial Property. This is the first convention in the world in terms of protecting intellectual property rights.

Between April 1985 and January 2010, the total number of patent applications filed in China by foreigners exceeded 935,000 - with 442,000 of these having been awarded.

In 1994, China became a signatory to the Patent Cooperation Treaty (PCT). In that year, China only submitted 103 patent applications. However, by 2009 China submitted over 8,000 patent applications (which ranked it number 5 in the world).

As of September 2009, the applications for international trademarks filed by Chinese companies and individuals totalled 9,477. China has been ranked number 8 amongst the members of the League Madrid International Trademark Registration (and ranked number 1 amongst developing countries in the past four years).

All the above facts demonstrate that the Chinese government has made great progress in protecting intellectual property rights for both local and foreign owned companies.

## Reference:

Benjamin Bai, Wall Street Daily 11 February 2011  
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<http://online.wsj.com/article/SB10001424052748704259304575044150656353806.html>

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